

REMARKS

I. Status of the claims and support for the amendments thereof

Claim 31 is currently amended and claim 41 is newly added.

Claims 31, 37–41 are currently pending.

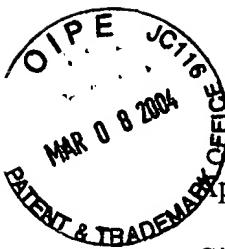
Support for the amendment of claim 31 and for newly added claim 41 is found in claim 31 as originally filed and in the Specification at pages 16–20, page 31, lines 14–22, page 50, page 51, and Figure 14.

II. Response to the restriction requirement

In the Restriction Requirement, the Examiner stated the claims comprised distinct inventions including:

- I. Claims 31 and 37, drawn to methods for detecting HIV-3 utilizing a DNA comprising the nucleotide sequence of SEQ ID NO:1.
- II. Claims 31 and 38, drawn to methods for detecting HIV-3 utilizing a DNA comprising the nucleotide sequence of SEQ ID NO:2.
- III. Claims 31 and 39, drawn to methods for detecting HIV-3 utilizing a DNA comprising the nucleotide sequence coding protein p12 of the HIV-3 retrovirus.
- IV. Claims 31 and 39, drawn to methods for detecting HIV-3 utilizing a DNA comprising the nucleotide sequence coding protein p16 of the HIV-3 retrovirus.
- V. Claims 31 and 39, drawn to methods for detecting HIV-3 utilizing a DNA comprising the nucleotide sequence coding protein p25 of the HIV-3 retrovirus.
- VI. Claims 31 and 40, drawn to methods for detecting HIV-3 utilizing a DNA comprising the nucleotide sequence coding protein gp41 of the HIV-3 retrovirus.
- VII. Claims 31 and 39, drawn to methods for detecting HIV-3 utilizing a DNA comprising the nucleotide sequence coding protein gp120 of the HIV-3 retrovirus.

In response Applicant notes that the claims, as currently amended, comprise a generic claim (claim 41) that effectively links the remaining claims, which represent species under the genus. Further, in accordance with MPEP 809.02 if the generic claim is found to be allowable,



Applicant is entitled to examination of a reasonable number of species claims embraced thereby.

Given that claims to the newly discovered HIV-3 were found to be patentable in the parent of the present application, Applicant believes that the current claims, including the generic claim, should also be found patentable.

Therefore, in response to the restriction requirement which the Examiner imposed, Applicant provisionally elects, with traverse, to prosecute claims 31 and 37 (*i.e.* the group I claims). Applicant respectfully requests that the newly added generic claim (*i.e.* claim 41) also be examined at this time.

Once the generic claim is found allowable, Applicant believes that the species claims currently restricted out (*i.e.* claims 38, 39, and 40) should also be examined in the current application.

The Examiner is invited to contact the undersigned patent agent at (713) 787-1589 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

Matthew L. Madsen
Reg. No. 45,594
Patent Agent for Assignee
INNOGENETICS N.V.

HOWREY SIMON ARNOLD & WHITE, LLP
750 Bering Drive
Houston, Texas 77057-2198
(713) 787-1400

Date: March 2, 2004